

REMARKS

This Response is submitted in response to the Final Office Action mailed July 19, 2005. Claims 1 to 61 are currently pending and at issue in this application. No claims are amended by way of this response. A Request for Continued Examination ("RCE") and petition for a two month extension of time is submitted herewith. A check in the amount of \$620.00 is submitted to cover the cost of the RCE and the two month extension of time. Please charge Deposit Account No. 02-1818 for any insufficiency of payment or credit for any overpayment. As an initial matter, applicants acknowledge receipt of the Information Disclosure Statement (IDS) previously submitted, which is now considered and initialed.

The Office Action rejected each of the currently pending claims based on Glezerman (U.S. Publication 2003/0207237) and/or Whitfield (U.S. Publication 2002/0002491). Glezerman was filed on April 3, 2001. Whitfield was filed on April 17, 2001. As demonstrated by the attached supplemental declaration under rule 131, the inventors conceived of the invention as currently claimed prior to April 3, 2001 and worked diligently to reduce it to practice from at least that date until this patent application was filed on June 5, 2001. In addition, this supplemental 131 declaration is executed by all of the inventors.

As to conception, this supplemental 131 declaration clearly demonstrates conception prior to April 3, 2001. Specially, on April 2, 2001, Ada Mae Edecker (one of the inventors) received a letter and a third draft of the patent application (Exhibit A – portions redacted). This third draft includes a specification fully demonstrating the conception of the invention. In addition, this third draft includes a set of claims demonstrating full conception of the invention.

The Examiner states that:

Applicant relies on Exhibits A and B to establish conception of the applicant's claimed invention. The exhibits are draft version disclosing substantive evidence of the invention. The Examiner has reviewed the exhibits and is of the opinion that these exhibits do provide sufficient evidence to support the conception of the claimed invention, however, Applicant indicates *** that Exhibit A *** was in "close to final form" but the next draft was not received until over a month later on May 3, 2001. The month interim between the third draft and the final draft is not accounted

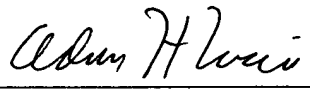
for and is therefore speculative as to whether changes and/or corrections made to the draft were substantive changes as opposed to cosmetic changes. (July 19, 2005 Office Action, page 4; emphasis added)

Applicants are not relying on Exhibits A and B to establish conception on the invention. Applicant's are currently only relying on Exhibit A to establish conception on the invention. Exhibit A includes a specification fully demonstrating the conception of the invention and a set of claims fully demonstrating the conception of the invention. Once conception is demonstrated, no amount of time (accounted for or unaccounted for) can take that away. In addition, two different documents (e.g., two different drafts of a patent application) may demonstrate conception of an invention, and those two documents may be substantially different or they may be merely cosmetically different. The degree of subsequent change to a document is irrelevant to the issue of whether the unchanged version of the document demonstrates conception of an invention.

As to diligence, this supplemental 131 declaration clearly demonstrates diligence from prior to April 3, 2001 until this patent application was filed on June 5, 2001. Specifically, item 11 of the supplemental 131 declaration states that on several different days between April 2, 2001 and May 3, 2001, the inventors and their attorneys at Bell, Boyd & Lloyd revised the text of the patent application. Although the invention was fully conceived at least as early as April 2, 2001, significant and time consuming editorial changes were made to the patent application between April 2, 2001 and May 3, 2001. A copy of the text of the patent application with the changes between the April 2, 2001 version and the May 3, 2001 version highlighted is attached to the supplemental 131 declaration as Exhibit B. As indicated by the supplemental 131 declaration, this work was a collaborative effort between several different people in different geographical locations thereby adding to the time required to make these changes.

Because Glezerman and Whitfield are not prior art, applicant respectfully submits that claims 1 to 61 are each patentably distinguished over the prior art. Reconsideration is respectfully requested. An earnest endeavor has been made to place this application in condition for formal allowance, and in the absence of more pertinent art, such action is courteously solicited. If the Examiner has any questions regarding this Response, applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,
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